

the associated Form MMS 2014 or bill document, unless the difference in amount has been authorized by MMS.

(b) An assessment of an amount not to exceed \$250 may be charged for each payment submitted by a payor that cannot be automatically applied by AFS to the associated Form MMS-2014 or bill document because of inadequate or erroneous information submitted by the payor. For purposes of this section, inadequate or erroneous information is defined as:

(1) Absent or incorrect payor assigned document number, required to be identified by the payor in Block 3a on a Form MMS-2014, or the reuse of the same payor assigned document ("3a") number in a subsequent reporting period.

(2) Absent or incorrect bill document invoice number (to include the four character alpha prefix and the eight digit number) or the payor-assigned 3a number required to be identified by the payor on the associated payment document, or the reuse of the same payor assigned 3a number in a subsequent reporting period.

(3) Absent or incorrect name of the administering Bureau of Indian Affairs Agency/Area office and the word "allotted" or the tribe name on payment documents remitted to MMS for an Indian tribe or allottee. If the payment is made by EFT, the payor must identify the tribe/allottee on the EFT message by a pre-established five digit code.

(4) Absent or incorrect MMS assigned payor code on a payment document.

(c) For purposes of this section, the term "Form MMS-2014" includes submission of reports of royalty information by magnetic media. Magnetic media submissions include submissions by magnetic tape, magnetic cartridge, or floppy diskette.

(d) For purposes of this section, a bill document is defined as any Bill of Collection (Form DI-1040b) that has been issued by MMS for assessments, late-payment interest charges, or other amounts owed.

(e) For purposes of this section, a payment document is defined as one of the payment methods identified in § 218.51(a)(3).

(f) The amount of the assessment to be imposed pursuant to paragraphs (a)

and (b) of this section shall be established periodically by MMS. The assessment amount will be based on MMS' experience with costs and improper reporting and/or payment as specified in this section. The MMS will publish a Notice in the FEDERAL REGISTER of the assessment amount to be applied with the effective date.

[58 FR 45438, Aug. 30, 1993]

**§ 218.42 Cross-lease netting in calculation of late-payment interest.**

(a) Interest due from a payor on any underpayment for any Federal mineral lease or leases (onshore or offshore) and on any Indian tribal mineral lease or leases for any production month shall not be reduced by offsetting against that underpayment any overpayment made by the payor on any other lease or leases, except as provided in paragraph (b) of this section. Interest due from a payor or any underpayment on any Indian allotted lease shall not be reduced by offsetting against any overpayment on any other Indian allotted lease under any circumstances.

(b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset to determine whether and to what extent an underpayment exists on which interest is due if the following conditions are met:

(1) The error results from attributing and reporting an equal volume of production, produced from a lease or leases during a particular production month, to a different lease or leases from which it was not produced for the same or another production month;

(2) The payor is the same for the lease or leases to which production was attributed and the lease or leases to which it should have been attributed;

(3) The payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information;

(4) The lessor is the same for the leases involved (in the case of Indian tribal leases, the same tribe is the lessor); and

(5) The ultimate recipients of any royalty or other lease revenues under any applicable permanent indefinite appropriations are the same for, and receive the same percentage of revenue from, the leases.

(c) If MMS assesses late-payment interest and the payor asserts that some or all of the interest assessed is not owed pursuant to the exception set forth in paragraph (b) of this section, the burden is on the payor to demonstrate that the exception applies in the specific circumstances of the case.

(d) The exception set forth in paragraph (b) of this section shall not operate to relieve any payor of liability imposed by statute or regulation for erroneous reporting.

[57 FR 62206, Dec. 30, 1992]

## Subpart B—Oil and Gas, General

SOURCE: 49 FR 37346, Sept. 21, 1984, unless otherwise noted.

### §218.50 Timing of payment.

(a) Royalty payments are due at the end of the month following the month during which the oil and gas is produced and sold except when the last day of the month falls on a weekend or holiday. In such cases, payments are due on the first business day of the succeeding month. Rental payments are due as specified by the lease terms.

(b) Payments made on a Bill for Collection (Form DI-1040b) are due as specified by the Bill. Bills for Collection will be issued and payable as final collection actions.

(c) All payments to MMS are due as specified and are not deferred or suspended by reason of an appeal having been filed unless such deferral or suspension is approved in writing by an authorized MMS official.

### §218.51 How to make payments.

(a) *Definitions.*

*ACH*—Automated Clearing House. A type of EFT using the ACH network.

*Courtesy Notice*—An MMS-issued notice of rental or bonus due.

*Deferred Bonus Payment*—Lease bonus paid in equal annual installments over a specified number of years.

*EFT*—Electronic Funds Transfer. Any paperless transfer of funds a bank initiates through an electronic terminal. For MMS purposes, EFT is limited to FEDWIRE and ACH transfers.

*FEDWIRE*—A type of EFT using the Federal Reserve Wire network.

*Invoice Document Identification*—The MMS-assigned invoice document identification (four alpha and eight numeric characters).

*Payment*—Any monies for royalty, bonus, rental, late payment charge, assessment, penalty, or other money sent to MMS.

*Person*—Any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity). The term does not include Federal agencies.

*Report*—Form MMS-2014, *Report of Sales and Royalty Remittance*.

*RIK*—Royalty in kind.

(b) *General Instructions.* You must make all payments to MMS electronically to the extent it is cost effective and practical. If you pay money to MMS or to an Indian tribe or allottee, you must follow these procedures:

(1) If MMS instructs you to use EFT, you must use EFT for all payments to MMS and/or a tribe.

(2) Contact MMS before using EFT. MMS will provide you with EFT payment instructions.

(3) Separate any payments on a Federal lease from any payments on an Indian lease.

(4) If you are not required to use EFT, use one of the following types of payment documents. MMS prefers that you use these payment documents in the order presented:

(i) Commercial check drawn on a solvent bank;

(ii) Certified check;

(iii) Cashier's check;

(iv) Money order;

(v) Bank draft drawn on a solvent bank; or

(vi) Federal Reserve check.

(5) You must include your payor code on all payments.

(6) You must pay in U.S. dollars.

(c) *How to complete a non-EFT payment.* (1) Make any payment on a Federal lease payable to: "Department of the Interior-Minerals Management Service" or "DOI-MMS."